

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL CASE NO. 1:08cr128-2

UNITED STATES OF AMERICA,)

)

)

vs.)

)

)

ELWOOD AVERY.)

)

ORDER

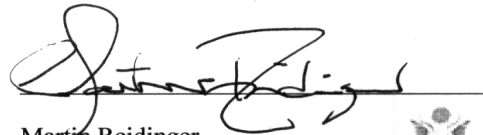
THIS MATTER is before the Court on the Defendant's *pro se* "Motion to Apply the 1 to 1 Ratio Based of [sic] the Discriminatory Impact on Minorities." [Doc. 350].

The Defendant was sentenced on August 26, 2009. [Doc. 307]. He filed a Notice of Appeal on September 16, 2009. [Doc. 341]. The United States Court of Appeals for the Fourth Circuit has appointed counsel to represent the Defendant. [Doc. 352]. The Defendant may not make *pro se* filings while he is represented by counsel. Additionally, the Defendant's case is on appeal in the Fourth Circuit. As a result, the pleading will be stricken from the record.

Accordingly, **IT IS, THEREFORE, ORDERED** that the Defendant's *pro* se "Motion to Apply the 1 to 1 Ratio Based of [sic] the Discriminatory Impact on Minorities" [Doc. 350] is hereby **STRICKEN** from the record.

IT IS SO ORDERED.

Signed: October 30, 2009

A handwritten signature in black ink, appearing to read "Martin Reidinger", written over a horizontal line.

Martin Reidinger
United States District Judge

